

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Double Patenting

2. Claims 1-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/480,672 and Claims 1-6 of copending Application No. 10/536,858 respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because claimed process of the instant claims and claims of the copending application are substantially identical to each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

3. Claims 1-10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vathauer et al. (Macromolecules 2000, 33, 1955-1959) in view of GB 1 460 795 for the same rationale as set forth in the previous Office Action mailed October 4, 2007.

Response to Arguments

4. Applicant's arguments filed April 1, 2008 have been fully considered but they are not persuasive.

Applicants indicate that Vathauer's formulae (1) and (3) are not encompassed by the racemic metallocenes recited in the current process claims. While it is correct that Vathauer's formula (1) does not meet metallocene complex (II) limitations of the instant

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claims, it is the examiner's position that Vathauer's formula (3) is still encompassed by the racemic metallocenes recited in the current process claims, Vathauer's formula (3) is equivalent to metallocene complex (II) of the instant claims wherein R^{5-8} are all hydrogen and L is silylidene, M is Zr, X is halogen and p is 2.

Applicants argue that Vathauer's meso-forms of metallocenes 1 and 2 are much more active than the corresponding rac-isomers, thus, applicants conclude that there would be no predictability in choosing a rac-form metallocene for the claimed process. However, the Examiner disagrees. While the meso-forms of Vathauer's metallocenes are more reactive, those metallocene meso-isomers only produce atactic butene-1 polymers. When the isotactic butene-1 polymers with good mechanical strength are desired, a skill artisan would be motivated to use the less active metallocene rac-isomers of Vathauer.

Applicants also argue that '795 discloses that highly isotactic polybutene-1 is disadvantage due to the low transparency and poor resistance to tear propagation, thus, applicants conclude that '795 teaches away from the isotactic materials recited of the instant claims. It appears that there is misunderstanding of the teaching of '795. While '795 indicates highly isotactic polybutene-1 is disadvantageous due to its high crystallinity, '795 also discloses the solution to the problem is to provide a less crystalline isotactic butene-1 polymer, and such is achieved by preparing a butene-1 polymer either by using a catalyst which generate less isotacticity or introduce comonomers to the isotactic butene-1 polymer chain. Therefore, it would have been obvious to introduce a comonomer to Vathauer isotactic butene-1 homopolymer in order

to provide a less crystalline isotactic butene-1 copolymer with good mechanical strength and improved transparency when made to film.

In view of the foregoing, the rejections are deemed proper and thus maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached on 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Caixia Lu/
Caixia Lu
Primary Examiner
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